

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE DANIELS

WILLIAM RODRIGUEZ,

Docket #:

Plaintiff,

\*against\*

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE DEPARTMENT, POLICE OFFICERS  
and SERGEANTS JOHN DOES "1" through "5",  
WESTERN BEEF, INC. and PAULIE "L/K/U"  
(Last Name Unknown)

Defendants.

11 CIV 2053

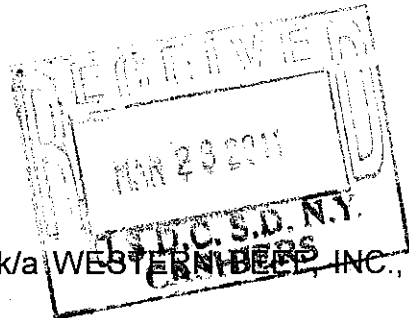
PETITION FOR REMOVAL

The petitioners, WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC., respectfully petition this court as follows:

1. WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC. is a defendant in a civil action commenced in the SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF BRONX bearing Index No.: 301624/11 . A copy of the Summons and Complaint is attached hereto as Exhibit "A".

2. Defendant, WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC. was formed, has its principal place of business, operates, and hence a citizen of New York State under whose corporate laws it was founded and operates and has its principal place of business in Queens, New York. Co-defendants THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICERS and SERGEANTS JOHN DOES "1" through "5", is a municipal corporation, and police department operated by it and individual police officers employed by it.

3. Upon information and belief, plaintiff WILLIAM RODRIGUEZ resides at , is a citizen and resident of the Bronx County, State of New York.



4. This action was commenced on or about February 22, 2011 by the purchase of an index number on February 22, 2011. Service of the summons and complaint upon this party, WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC., was made on or about March 21, 2011.

5. This petition is being filed pursuant to 28 U.S.C. § 1446(b) within 30 days of receipt of the initial pleading by defendants WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC.. The time for filing this petition has not expired.

6. This action is being removed to Federal Court based upon FEDERAL QUESTION, to wit the claim by plaintiff that his constitutional rights under the Fourth and Fourteenth Amendment of the United States Constitution without due process.

7. As noted above the parties to this action are citizens of different states.

8. The information contained in the Summons and Complaint indicated that plaintiff seeks damages in excess of the amount in controversy requirement of this court, exclusive of interests and costs.

9. This action is therefore one which may be removed to this Court because this Court has original jurisdiction pursuant to 28 U.S.C. §1332(a).

10. Venue is proper pursuant to 28 U.S.C. §1441(a).

11. Pursuant to 28 U.S.C. § 1446(d) this party WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC. has this day, served upon the Clerk, Supreme Court, BRONX County notification of the filing of this petition. A copy of the Notice of removal filed in the Supreme Court is attached hereto as Exhibit "B".

WHEREFORE, pursuant to this provisions of 28 U.S.C. §§1441 and §§1446 defendants respectfully request that this action be removed from the Supreme Court of the State of New York, BRONX County and henceforth proceed in this Court.

Dated: Mineola, New York  
March 24, 2011

WESTERN BEEF RETAIL, INC.  
f/k/a WESTERN BEEF, INC.

By: 

BRUCE A. TORINO (BT 7772)  
TORINO & BERNSTEIN, P.C.  
200 Old Country Rd., Suite 220  
Mineola, NY 11501  
(516) 747-4301 Fax: (516) 747-5956

**- EXHIBIT A -**

UNITED LAWYERS

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
WILLIAM RODRIGUEZ

Plaintiff,

-against-

SUMMONS

Index No.:

301624/2011

The basis of venue is:  
Plaintiff's residence

Plaintiff designates Bronx  
County as the place of trial.

A POLICE DEPARTMENT, POLICE OFFICERS and  
SERGEANTS JOHN DOES "1" through "5",  
WESTERN BEEF, INC., and PAULIE "L/K/U"  
(Last Name Unknown),

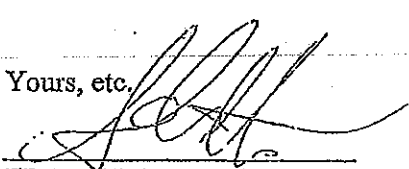
Defendants.  
-----X

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York  
February 18, 2011

Yours, etc.

  
EBANKS & SATTLER, LLP.  
ADAM B. SATTLER, ESQ.  
Attorney for Plaintiffs  
20 Vesey Street, Ste. 503  
New York, New York 10007  
212-766-4411

CITY OF NEW YORK  
CORPORATION COUNSEL  
100 Church Street  
New York, New York 10007

WESTERN BEEF, INC.  
1041 Prospect Avenue, Bronx, New York 10459

2011 FEB 22 AM 9:11  
COUNTY CLERK  
BRONX COUNTY

RECEIVED

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
WILLIAM RODRIGUEZ

VERIFIED COMPLAINT

Plaintiff,

Index No.: 301624/2011

-against-

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE DEPARTMENT, POLICE OFFICERS and  
SERGEANTS JOHN DOES "1" through "5",  
WESTERN BEEF, INC., and PAULIE "L/K/U"  
(Last Name Unknown),

Defendants.  
-----X

Plaintiff, WILLIAM RODRIGUEZ, by his attorneys, EBANKS & SATTLER, as and for his  
complaint herein, alleges upon information and belief as follows:

1. At all times relevant hereto, defendant CITY OF NEW YORK is a municipality existing under and by virtue of the laws of the State of New York.
2. At all times relevant hereto, defendant CITY OF NEW YORK, operated, maintained, managed, supervised and controlled the New York City Police Department (NYPD) as part of and in conjunction with its municipal function.
3. Plaintiff in furtherance of their State causes of action filed a timely Notice of Claim against the CITY OF NEW YORK, in compliance with the Municipal Law Section 50. The Notice of Claim was filed on September 29, 2010.
4. More than thirty (30) days have elapsed since service of said Notice of Claim was filed and THE CITY OF NEW YORK has failed to pay or adjust the claim.
5. THE CITY OF NEW YORK has held a 50(H) hearing examination of the Plaintiff.
6. At all times relevant hereto, defendant THE NEW YORK CITY POLICE DEPARTMENT (NYPD) is a city agency organized under the Municipal Corporation Law of the City of New York to provide safety to the citizens of New York,
7. At all times relevant hereto, defendants New York City Police Officers and Sergeants' JOHN DOES 1 thru 5 are individuals whose identities are not yet known to Plaintiff and Upon information and belief, participated in conjunction with defendants in causing and contributing to the injuries of the plaintiff.

8. On or about August 13, 2010, at approximately 6:00pm, at the Western Beef store located at 1041 Prospect Avenue, Bronx, New York, County of Bronx, State of New York, plaintiff was lawfully within the Western Beef location when he was attacked by a Western Beef employee Defendant, "Paulie", L/N/U and subsequently assaulted by members of the New York City Police Department.
9. The unidentified officers falsely and without provocation forced the plaintiff to the ground, fracturing his ribs, and causing trauma to his head.
10. The officers aware that the assailant was still at large, made no attempts of his whereabouts, instead confined the victim of the attack, the Plaintiff, and caused irreparable harm to him.

**FIRST CAUSE OF ACTION:  
POLICY OF NON-FEASANCE IN THE  
PRO C ION OF PLAINTIFF'S CIVIL RIGHTS**

11. Plaintiff repeats and realleges paragraphs 1 through 10 as if fully set forth herein.
12. At all times relevant hereto, defendant, CITY OF NEW YORK employed the defendants, Police Officers and Sergeants John Doe 1 thru 5 as Police Officers in the New York City Police Department.
13. Upon information and belief, defendants, Police Officers John Does 1 thru 5 are graduates of the NYPD's Police Academy.
14. At all relevant times hereto, defendants THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT had the duty to competently and sufficiently hire, train and retain within the Police Academy and at the Command, precinct and Patrol levels, the defendant Officers in the protection of the Constitutional rights of the plaintiff under the Fourteenth Amendment of the United States constitution.
15. In addition, the defendant, CITY OF NEW YORK, had the duty to competently and sufficiently hire, train and retain within the Police Academy and at the Command, precinct and Patrol levels, the defendant officers to conform their conduct to a standard, established by law, for the protection of citizens such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as not to intentionally, wantonly, and/or negligently inflict injuries to citizens such as the plaintiff herein.
16. Each and all of the acts of the Defendants alleged herein were done by the Defendants, their agents, servant and/or employees, and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and County of Bronx, and under the authority of their office as police officers of said state, city and county.
17. The defendants, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT failed to competently and sufficiently hire, train and retain the defendant officers to conform and conduct themselves to a statute established by law for

- the protection of citizens, such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as not to intentionally, wantonly and/or negligently inflict injuries to citizens such as plaintiff herein.
18. That on or about August 13, 2010 at approximately 6:00 pm., and prior thereto, THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT in Violation of 42 U.S.C. 1983 caused the plaintiff, WILLIAM RODRIGUEZ to be injured and damaged in failing to competently hire, train and retain police officers, including but not limited to the defendant officers to conform and conduct themselves to a statute established by law for the protection of citizens, such as plaintiff, against unreasonable risk of harm by conducting themselves in such a manner as to intentionally wantonly and/or negligently inflict injuries to citizens such as plaintiff herein.
  19. On or about August 13, 2010, the plaintiff, WILLIAM RODRIGUEZ, was lawfully and Properly present at the aforementioned location in the County of Bronx, City and State of New York.
  20. On or about August 13, 2010, the defendants, Police Officers John Doe 1 thru 5 were present at 1041 Prospect Avenue, in the County of Bronx, City and State of New York, as part of their regular and official employment as police officers for the defendants, THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT.
  21. Commencing on August 13, 2010 at approximately 6:00pm., the individual Defendant officers, assaulted, and detained the plaintiff, WILLIAM RODRIGUEZ, without probable or just cause, grounds or legal justification or provocation.
  22. Immediately thereafter, the aforementioned defendants, their agents, servants and employees handcuffed the injured plaintiff to a stretcher and deprived him of his rights and liberties as set forth in the Constitution of the United States and the State of New York, and subjected him to physical force.
  23. As a result, plaintiff, WILLIAM RODRIGUEZ, was forcibly handcuffed, detained, transported and treated as a common criminal by the defendants, THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT and thereby deprived of his rights, liberties and freedoms under the color of State Law in violation of 42 USC 1983.  
  
As a further result of the deprivation of plaintiff, WILLIAM RODRIGUEZ'S right to be free from the deprivation of rights guaranteed to him by the Fourteenth Amendment to the United States Constitution, and the Constitution of the State of New York, he was caused to suffer injury and damage both mentally and physically, severe nervous shock and emotional distress and illness.
  24. That all of the actions of the defendants, their agents, servants and/or employees were committed with the intention to cause bodily and mental injury to the plaintiff, to arrest, restrain, and imprison the plaintiff without his consent, that the plaintiff was subsequently knocked unconscious, did not consent to the assault, battery, and confinement, were not otherwise privileged.
  25. The detaining and confining of the Plaintiff were negligent and reckless and were not justified by probable cause or other legal privilege and the defendants, their agents servants, and/or employees acting under the color of the statute, ordinances, regulations, customs, and usages of the State, City and County of New York

26. That the Defendant CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT, its agents, servants and/or employees failed to hire, train, supervise, discipline or in any other way control the defendant officers in the exercise of their functions, that their failure to enforce the laws of the State of New York and the City of New York was and is carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences so as to display a conscious disregard for the dangers of harm and injury to citizens of the State and City of New York, including Plaintiff herein.
27. That the plaintiff, WILLIAM RODRIGUEZ, did not commit any illegal act, either before or at the time he was assaulted and battered, maliciously prosecuted and deprived of his constitutional rights as set forth in the Constitution of the United States, particularly 42 USC Section 1983 and the constitution of the State of New York.
28. That at all times all times hereinafter mentioned, the defendant police officers were employed in their respective capacities by the defendants, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT and were acting under the color of their official capacity and their acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the CITY OF NEW YORK.
29. Although the defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and/or employees, the defendant CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT has not taken any steps or made any efforts to halt this course of conduct to make redress to the plaintiff or other citizens injured thereby, or to take any disciplinary action whatever against any employees or agents.
30. The defendant, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT were negligent in its operation, management, supervision and control of their Police Department; in not providing adequate training of defendant police officers while at the Police Academy; in their supervision of Defendant police officers while assigned to their respective commands; in failing to provide adequate supervision of defendant police officers during their training at the Police Academy.
31. That on or about August 13, 2010 and thereafter, violation of the rights, privileges and immunities guaranteed to him under the Fourteenth Amendment to the United States Constitution and under the color of State law, the defendants acted individually and in concert causing the plaintiff to have been injured and damaged in an amount to be determined upon the trial of this action.
32. The unlawful and illegal conduct of the defendants, their agents, servants and or employees and each of them, deprived plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United States and of the State of New York: The right of plaintiff to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments of the Constitution of the United States, the right of the plaintiff to be informed of the nature and cause of the accusation against him as secured to him under the Sixth and Fourteenth Amendments of the Constitution of the United States; and the right of plaintiff not to be deprived of life, liberty or property without due process of law and the right to the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States.

33. That by reason of the foregoing, this plaintiff was severely injured and damaged, rendered, sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, physical discomfort and emotional distress, has suffered and continues to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence.
34. That by reason of the foregoing, Plaintiff WILLIAM RODRIGUEZ has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF  
ACTION: ASSAULT AND BATTERY**

35. Plaintiff, WILLIAM RODRIGUEZ, repeats and realleges each and every allegation contained herein as though the same were set forth at length herein.
36. On or about August 13, 2010 at the Western Beef store located at 1041 Prospect Avenue, County of Bronx, State of New York plaintiff WILLIAM RODRIGUEZ, was first assaulted by an employee of defendant Western Beef, defendant "Paulie" L/N/U and further assaulted by Pos and Sergeants. JOHN DOES "1" through "5" without justification or probable cause, placed in handcuffs, physically restrained, battered and assaulted by the responding police officers.
37. That by reason of the foregoing, this plaintiff was severely injured and damaged, rendered, sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, physical discomfort and emotional distress, has suffered and continues to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence.
38. That by reason of the foregoing continued assault and battery WILLIAM RODRIGUEZ has been damaged in an amount exceeding the jurisdictional limits of this Court, to be determined upon the trial of this action.

**AND AS FOR A THIRD CAUSE OF ACTION:**  
**COMMON LAW NEGLIGENCE AGAINST WESTERN BEEF AND PAULIE L/N/U**

39. Plaintiff, WILLIAM RODRIGUEZ, repeats and realleges each and every allegation contained herein as though the same were set forth at length herein.
40. Upon information and belief, that at all the times hereinafter mentioned, defendant, WESTERN BEEF, was and still is a domestic corporation organized and existing by virtue of the laws of the State of New York.
41. Upon information and belief, that at all times hereinafter mentioned, on or about August 13, 2010, the defendant WESTERN BEEF and defendant "Paulie" L/N/U and, its agents, servants, and/or employees, operated a supermarket open to the public located at 1041 Prospect Avenue, Bronx, New York.
42. Upon information and belief, that at all the times hereinafter mentioned, defendant, WESTERN BEEF and defendant "Paulie" L/N/U, its agents, servants, and/or employees, controlled the aforesaid premises.
43. Upon information and belief, that at all the times hereinafter mentioned, defendant, WESTERN BEEF and defendant "Paulie" L/N/U, its agents, servants, and/or employees maintained the aforesaid premises.
44. That on or about the 13th day of August, 2010, plaintiff was lawfully at the aforesaid location.
45. That on or about the 13<sup>th</sup> day of August 2010, plaintiff was shopping at the aforesaid location when he assaulted and battered by one of the employees at the aforesaid location.
46. That by reason of the foregoing, this plaintiff was severely injured and damaged, rendered, sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, physical discomfort and emotional distress, has suffered and continues to suffer serious and extreme mental and emotional anguish, distress and psychological damages and difficulties, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily incur further expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to this occurrence.
47. That by reason of the foregoing continued assault and battery WILLIAM RODRIGUEZ has been damaged in an amount exceeding the jurisdictional limits of this Court, to be determined upon the trial of this action.

AND AS FOR A FOURTH CAUSE OF ACTION:  
COMMON LAW NEG

48. Plaintiff, WILLIAM RODRIGUEZ, repeats an every allegation  
contained herein as though the same were set f

WHEREFORE, plaintiff, WILLIAM RODRIGUEZ demands judgment against  
the defendants on each cause of action in amounts to be determined upon the trial of  
this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages  
and attorneys fees inclusive of costs and disbursements of this action, interest and such other  
relief as is appropriate under the law.

Dated: New York, New York  
February 18, 2011

Respectfully Submitted:

By: 

ADAM B. SATTLER  
Attorneys for plaintiff,  
WILLIAM RODRIGUEZ  
EBANKS & SATTLER, LLP.  
20 VESBY STREET, 503  
NEW YORK, NEW YORK 10007  
212-766-4411

TO:

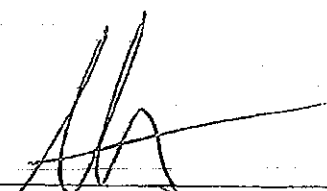
CITY OF NEW YORK  
CORPORATION COUNSEL  
100 Church Street  
New York, NY 10007

ATTORNEY'S VERIFICATION

ADAM B. SATTLER., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a partner of the law firm of EBANKS & SATTLER, LLP, I have read the annexed VERIFIED COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files. The reason this verification is made by me and not Plaintiffs' is that Plaintiffs' do not reside in the county wherein I maintain my office.

DATED: New York, New York  
February 18, 2011

  
ADAM B. SATTLER

*Index No.*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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WILLIAM RODRIGUEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, POLICE  
OFFICERS and SERGEANTS JOHN DOES "1" through "5", WESTERN BEEF, INC.,  
and PAULIE "L/ &U" (Last Name Unknown),

Defendants.

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SUMMONS AND VERIFIED COMPLAINT

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EBANKS & SATTLER, LLP  
20 Vesey Street, Suite 503  
New York, NY 10007  
(212) 766-4411

*Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.*

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

is hereby admitted.

Attorney(s) for

---

**-EXHIBIT B-**

**TORINO & BERNSTEIN, P.C.**

ATTORNEYS AT LAW

200 OLD COUNTRY ROAD, SUITE 220  
MINEOLA, NEW YORK 11501-4236

BRUCE A. TORINO  
KENNETH A. BERNSTEIN

VINCENT J. BATTISTA  
EVA J. TOMPKINS  
CHRISTINE M. CAPITOLO  
MITCHELL TETTELBAUM\*  
MICHAEL A. AMODIO\*  
BARBARA A. BORDEN  
THOMAS B. HAYN+  
FARAH R. MALOOF\*  
ELLIE S. KONSTANTATOS

\* Licensed Pharmacist N.Y.S.  
\* Also admitted in Florida  
+ Also admitted in New Jersey.

(516) 747-4301  
Fax (516) 747-5956

COUNSEL

ROBERT M. LEVINE  
GEORGE SCHWARTZ  
LESLIE C. GREENE  
KATHLEEN M. DOHERTY  
WILLIAM A. MEDICAN  
STEWART B. SCHACHNER  
CATHERINE N. GRAY

March 24, 2011

Supreme Court/Bronx County  
851 Grand Concourse  
Bronx, New York 10451

Attn: Motion Support Office

RE: WILLIAM RODRIGUEZ  
vs. THE CITY OF NEW YORK, et al.  
Our File Number: 597771  
INDEX NUMBER: 301624/11

Dear Sir or Madam:

Enclosed herewith please find NOTICE OF REMOVAL, for filing, on behalf of WESTERN BEEF RETAIL, INC. f/k/a WESTERN BEEF, INC., in connection with the above matter.

At this time, we request that the Court file same, returning this letter, with the date of filing, to this office in the enclosed stamped envelope provided for your convenience.

Thank you for your courtesy and cooperation in this matter. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

BRUCE A. TORINO

BAT:ack  
Enclosure

-----  
DATE FILED:

SUPREME COURT: STATE OF NEW YORK  
COUNTY OF BRONX

-----X Index No.: 301624/11

WILLIAM RODRIGUEZ,

-against-

Plaintiff(s),

NOTICE OF REMOVAL

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE DEPARTMENT, POLICE OFFICERS  
and SERGEANTS JOHN DOES "1" through "5",  
WESTERN BEEF, INC. and PAULIE "L/K/U"  
(Last Name Unknown),

Defendant(s).

-----X

PLEASE TAKE NOTICE that defendants WESTERN BEEF RETAIL, INC. f/k/a  
WESTERN BEEF, INC. have filed a petition to the United States District Court for the  
Southern District of New York for removal of this action to that court. A copy of said  
petition is attached hereto.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. §1446(e), this  
Court, "shall proceed no further unless and until this case is remanded."

Dated: Mineola, New York  
March 24, 2011

WESTERN BEEF RETAIL, INC.  
f/k/a ~~WESTERN BEEF, INC.~~

By: \_\_\_\_\_

BRUCE A. TORINO (BT 7772)  
TORINO & BERNSTEIN, P.C.  
Attorney for Defendants  
200 Old Country Road, Suite 220  
Mineola, NY 11501  
(516) 747-4301 Fax: (516) 747-5956

TO: Supreme Court/Bronx County  
851 Grand Concourse  
Bronx, New York 10451

EBANKS & SATTler, LLP  
20 Vesey Street, Suite 503  
New York, New York 10007

MICHAEL CARDOZO, ESQ.  
Corporation Counsel  
100 Church Street  
New York, New York 10007

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF NASSAU )

Anna Keeler, being duly sworn, deposes and says that deponent is not a party to the action, is over the age of 18 years and resides at New Hyde Park, New York. That on March 24, 2011, deponent served the annexed Notice of Removal upon the following attorneys:

EBANKS & SATTLER, LLP  
20 Vesey Street, Suite 503  
New York, New York 10007


MICHAEL CARDOZO, ESQ.  
Corporation Counsel  
100 Church Street  
New York, New York 10007

at the address designated by said attorney(s) for that purpose by depositing a true copy in an official depository under the exclusive care and custody of the United States Postal Service, together with the proper postage, within the State of New York.

Dated: Mineola, New York  
March 24, 2011

  
\_\_\_\_\_  
Anna Keeler

Sworn to before me this  
March 24, 2011

  
\_\_\_\_\_  
BRUCE A. TORINO  
Notary Public State of New York  
No. 02-T05065537  
Qualified in Nassau County  
Commission Expires Sept. 9, 2014

SUPREME COURT: STATE OF NEW YORK  
COUNTY OF BRONX

-----X INDEX NO.: 301624/11

WILLIAM RODRIGUEZ,

Plaintiff(s),

against

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE DEPARTMENT, POLICE OFFICERS  
and SERGEANTS JOHN DOES "1" through "5",  
WESTERN BEEF, INC. and PAULIE "L/K/U"  
(Last Name Unknown),

Defendant(s).

-----X

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NOTICE OF REMOVAL

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**TORINO & BERNSTEIN, P.C.**

Attorneys for Defendant(s)  
*WESTERN BEEF RETAIL, INC. f/k/a*  
*WESTERN BEEF, INC.*  
200 OLD COUNTRY ROAD, SUITE 220  
MINEOLA, NEW YORK 11501  
<516> 747-4301 Fax: <516> 747-5956

Our File Number: 597771

